

# SENATE BILL REPORT

## HB 2034

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As of March 27, 2007

**Title:** An act relating to providing a civil cause of action for victims of motor vehicle theft.

**Brief Description:** Providing a civil cause of action for victims of motor vehicle theft.

**Sponsors:** Representatives Jarrett, Clibborn, Roberts and Hurst.

**Brief History:** Passed House: 3/07/07, 97-0.

**Committee Activity:** Judiciary: 3/23/07.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Juliana Roe (786-7405)

**Background:** First degree theft is a class B felony and consists of the unauthorized taking of property with the intent to deprive the owner of the property, where the value of the property, other than a firearm, is more than \$1,500; or property of any value, other than a firearm, taken directly from the person of another; or a search and rescue dog while the dog is on duty.

Second degree theft is a class C felony. This crime can consist of an offender taking a car, valued at less than \$1,500, with the intent to deprive the owner of the property. Taking a vehicle without permission in the first degree, however, is a class B felony and entails an offender taking a car and changing its appearance or identification number, removing parts with intent to sell them, or taking a car with the intent to sell it. Taking a vehicle without permission in the second degree is a class C felony and entails an offender taking a car without permission or driving or riding in the car knowing it had been taken without permission. These crimes must be proven beyond a reasonable doubt.

A property owner may have a civil cause of action for the tort of conversion against the person who took the property. Conversion is the act of willfully interfering with personal property without lawful justification and thereby depriving possession of the property to someone who is entitled to possession. The plaintiff is entitled to recover actual damages and certain statutory costs associated with bringing the suit in this type of case. The plaintiff must establish the case by a preponderance of the evidence. Each party bears the cost of its own legal representation.

To initiate a lawsuit, the plaintiff must serve notice on the defendant. Service must be made personally on the defendant or by leaving the summons with a person of suitable age at the defendant's residence. If the defendant is not a resident of the state, or has left the state in

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order to avoid service, the defendant may be served through publication in a newspaper of general circulation.

**Summary of Bill:** A victim of one of the car theft statutes may civilly sue the perpetrator. In addition to actual damages, the plaintiff is entitled to recover civil damages of up to \$5,000 and the costs of the suit, including reasonable attorneys' fees.

A summons must be served on the defendant personally, unless he or she cannot be found after a diligent search, in which case service may be made on the Secretary of State. The plaintiff must file affidavits indicating compliance with the service of process requirements.

The Department of Licensing is required to suspend the defendant's driver's license until all monetary obligations imposed as a result of a lawsuit are paid in full. An exception to the mandatory suspension is provided if the defendant has entered into a payment plan with the court.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: We want to make it easier for victims to recover costs in these types of cases. This bill will streamline the process.

The most important part of this bill is the hook at the end that suspends an individual's driver's license until all monetary obligations have been paid, or a payment plan has been established. We want to make sure that the individual takes responsibility for his or her actions.

**Persons Testifying:** PRO: Representative Jarrett, prime sponsor.